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REMARKS

Restriction Requirements

“Claims to be restricted to different species must be mutually exclusive.” MPEP 806.04(f). The Examiner incorrectly ascertained that dependant claims 3, 4, 6, 14, 15, and 36 which depend from and therefore necessarily contain all limitations of claim 1, and that dependant claims 26-33, and 37 which depend from and therefore necessarily contain all limitations of claim 24, “read on” non-elected species. Examiner’s assertion ignores the fact that all of the ascertained species are dependent upon claim1. Because dependent claims cannot by their very nature recite “mutually exclusive” characteristics as required by MPEP 806.04(f) when compared to the independent claim from which they depend. Therefore, the Applicant respectfully traverses the Examiner’s restriction and withdrawal from consideration of claims 3, 4, 6, 14, 15, 26-33, 36 and 37. The Applicant respectfully requests that the Examiner withdraw the six-way restriction requirement and the withdrawal from consideration of the restricted claims.

Claim Rejections under 35 U.S.C. §102

The Examiner rejected claims 1, 2, 10, 11, 16-18, 23, and 24 under 35 U.S.C. §102(b) as disclosed by Kessous et al. (U.S. Pat. No. 6,394,172). In the trackless roll-up door opening covering disclosed by Kessous et al., “Leashing means 240a, 240b are attached to attachment points 241a, 241b at a first end, respectively, and removably attached to attachment points 242b, 242a, respectively, at a second end. Attachment points 241a, 241b, 242a, 242b are fixedly attached to building 100.” Col. 4, Lines 15-21. The attachment points 241a,b and 242a,b are clearly shown in FIGS. 2 and 3 to be merely holes. The holes (attachment points) taught by

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Kessous cannot be used as tensioning devices as asserted by the Examiner. Holes are not “tensioning devices,” or devices at all for that matter.

In Kessous et al., “Fastening straps 210a, 210b may then be used to secure fabric 140 by attachment means 200a, 200b” Col. 4, Lines 1-2. As shown in FIGS. 2 and 3, these fastening straps 210a,b apply force to the fabric 140, not the leashing means 240a,b. Therefore, Kessous et al. does not disclose a “tensioning device for applying tension” to either a filament or a strengthening means, as those terms are used in independent claims 1, 16 and 24.

Unlike the trackless roll-up door opening covering disclosed by Kessous et al., Applicant's shutter for a building aperture includes a shutter curtain, a filament spanning the aperture adjacent to the shutter curtain, and a tensioning device. The tensioning device applies tension to the filament, such that the filament supports the curtain against flexure, for example flexure caused by a force-imparting event. Applicant traverses the Examiner's rejection claims 1, 2, 10, 11, 16-18, 23, and 24 under 35 U.S.C. §102(b).

Applicant respectfully submits that neither Kessous et al., nor any other cited reference discloses the limitations of independent claims 1, 16 or 24. Therefore, because claims 2-6, 10-12, 14-15, 17-18, 23, 25-34, 36-37, and 39-40 depend therefrom, Applicant respectfully submits that claims 1-6, 10-12, 14-18, 23-34, 36-37, and 39-40 are now in condition for allowance, and such allowance is hereby requested.

Claim Rejections under 35 U.S.C. §103

The Examiner rejected claims 5, 12, 25, 34, 39 and 40 under 35 U.S.C. §103(a) as being unpatentable over Kessous et al. As explained above, however, Kessous et al. does not disclose

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or suggest a "tensioning device for applying tension" to either a filament or a strengthening means, as required by independent claims 1, 16 and 24, from which claims 5, 12, 25, 34, 39 and 40 depend. Examiner fails to provide a reference that discloses all of the limitations of independent claims 1, 16 and 24. Applicant respectfully traverses the Examiner's rejection of claims 5, 12, 25, 34, 39 and 40 under 35 U.S.C. §103(a).

Further Action Requested

The Applicant respectfully request that the Examiner withdraw the restriction and the withdrawal from consideration of claims 3, 4, 6, 14, 15, 26-33, 36 and 37. As Applicant has indicated above, no cited reference discloses the limitations of independent claims 1, 16 or 24. Therefore, it would not have been obvious to modify the claimed invention to meet the further limitations of herein amended dependent claims 2-6, 10-12, 14-15, 17-18, 23, 25-34, 36-37, and 39-40. Applicant respectfully submits that all pending claims are now in condition for allowance, and such allowance is respectfully requested.

Respectfully submitted,



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Date: 11/14/2004

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